



California Regional Water Quality Control Board Los Angeles Region



Linda S. Adams
Agency Secretary

Recipient of the 2001 *Environmental Leadership Award* from Keep California Beautiful

Arnold Schwarzenegger
Governor

320 W. 4th Street, Suite 200, Los Angeles, California 90013
Phone (213) 576-6600 FAX (213) 576-6640 - Internet Address: <http://www.waterboards.ca.gov/losangeles>

Granville "Bow" Bowman
City of Malibu
23815 Stuart Ranch Road
Malibu, CA 90265

WATER QUALITY CERTIFICATION FOR PROPOSED PARADISE COVE STORMWATER TREATMENT SYSTEM PROJECT (Corps' Project No. SPL-2008-492- PHT), RAMIREZ CANYON CREEK, TRIBUTARY TO THE PACIFIC OCEAN, MALIBU, LOS ANGELES COUNTY (File No. 08-037)

Dear Mr. Bowman:

Board staff has reviewed your request on behalf of The City of Malibu (Applicant) for a Clean Water Act Section 401 Water Quality Certification for the above-referenced project. Your application was deemed complete on November 24, 2008.

I hereby issue an order certifying that any discharge from the referenced project will comply with the applicable provisions of sections 301 (Effluent Limitations), 302 (Water Quality Related Effluent Limitations), 303 (Water Quality Standards and Implementation Plans), 306 (National Standards of Performance), and 307 (Toxic and Pretreatment Effluent Standards) of the Clean Water Act, and with other applicable requirements of State law. This discharge is also regulated under State Water Resources Control Board Order No. 2003 - 0017 - DWQ, "General Waste Discharge Requirements for Dredge and Fill Discharges that have received State Water Quality Certification" which requires compliance with all conditions of this Water Quality Certification.

The Applicant shall be liable civilly for any violations of this Certification in accordance with the California Water Code. This Certification does not eliminate the Applicant's responsibility to comply with any other applicable laws, requirements and/or permits.

Should you have questions concerning this Certification action, please contact Dana Cole, Section 401 Program, at (213) 576-5733.

[Original Signed by]

December 10, 2008

Tracy J. Egoscue
Executive Officer

Date

California Environmental Protection Agency



Our mission is to preserve and enhance the quality of California's water resources for the benefit of present and future generations.

DISTRIBUTION LIST

Granville Bowman, Special Projects Manager
City of Malibu, Public Works
23815 Stuart Ranch Road
Malibu, CA 90265

Bill Orme
State Water Resources Control Board
Division of Water Quality
P.O. Box 944213
Sacramento, CA 94244-2130

Jamie Jackson
California Department of Fish and Game
Streambed Alteration Team
4949 View Ridge Avenue
San Diego, CA 92123

Phuong Trinh
U.S. Army Corps of Engineers
Regulatory Branch, Los Angeles District
P.O. Box 532711
Los Angeles, CA 90053-2325

Eric Raffini (via electronic copy)
U.S. Environmental Protection Agency, Region 9
75 Hawthorne Street
San Francisco, CA 94105

Jim Bartel
U.S. Fish and Wildlife Service
6010 Hidden Valley Road
Carlsbad, CA 92009

ATTACHMENT A

Project Information File No. 08-037

1. Applicant: City of Malibu, Public Works
23815 Stuart Ranch Road
Malibu, CA 90265

Phone: (310) 456-2489 ext. 285 Fax: (310) 456-3356
2. Applicant's Agent: Granville Bowman, Special Projects Manager
3. Project Name: Paradise Cove Stormwater Treatment System
4. Project Location: Malibu area, Los Angeles County

<u>Longitude</u>	<u>Latitude</u>
118° 47' 13" W	34° 01' 14" N
5. Type of Project: Water treatment system construction
6. Project Purpose: The proposed project (Project) will install a treatment system which will provide cleaner storm water and dry weather flow discharges into the Pacific Ocean.
7. Project Description: Water quality at Paradise Cove Beach frequently exceeds bacterial water quality objectives for safe recreational use resulting in postings through out the year. Installation of this permanent stormwater treatment system is expected to significantly reduce bacteria and pathogens discharged from the Ramirez Canyon Watershed.

Water from the Ramirez Canyon Watershed flows year round in the concrete-lined reach which outlets onto Santa Monica Bay and the Pacific Ocean at Paradise Cove Beach. In the watershed, nearly all development is concentrated in the bottom third of the watershed, within the City of Malibu. A significant amount of surface water is generated from nuisance flows from this area.

A temporary, pilot, stormwater treatment system is in place. The

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new permanent system will have a greater capacity and is expected to significantly improve the water quality of Paradise Cove.

The proposed three-stage treatment system is designed to remove sediment, filter very small suspended solids and disinfect the clarified water. The system will consist of an underground sediment removal unit to remove particles greater than 10 µm in an underground concrete vault with two submersible pumps to control the flow to the filters, an above ground filtration system to remove smaller suspended solids, and a UV disinfection system to kill bacteria. Both the sediment chamber and the filters trap oil and grease.

Water will be diverted from the existing concrete channel to the adjacent facility for treatment, after which the treated stormwater will reenter the concrete channel and ultimately discharge onto Paradise Cove Beach.

The Project will replace the existing pilot water treatment facility that was temporarily erected along side the existing concrete channel that discharges onto the beach at Paradise Cove. This project will require minor modification (0.003 acres) to the concrete-lined channel.

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|------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 8. Federal Agency/Permit: | U.S. Army Corps of Engineers
NWP No. 7 (Permit No. SPL-2008-492-PHT) |
| 9. Other Required
Regulatory Approvals: | California Department of Fish and Game
Streambed Alteration Agreement |
| 10. California
Environmental Quality
Act Compliance: | A Notice of Exemption was filed with the Los Angeles county clerk on October 2, 2008 that the Project is Categorically Exempt from CEQA pursuant to the CEQA Guidelines, Section (e.g., 15302 Replacement or Reconstruction). |
| 11. Receiving Water: | Ramirez Canyon Creek, tributary to Pacific Ocean (Hydrologic Unit No. 404.35) |

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12. Designated Beneficial Uses: MUN, REC-1, REC-2, WARM, WILD, SPWN
13. Impacted Waters of the United States: Non-wetland waters (streambed): 0.003 permanent acres (12 linear feet)
14. Dredge Volume: None
15. Related Projects Implemented/to be Implemented by the Applicant:
- The Civic Center Stormwater Treatment Facility was completed in early 2007. The project provides filtration and disinfection of dry-weather flows and first flush runoff to which reduces the level of bacteriological contamination entering Malibu Lagoon, Surfrider Beach and the Pacific Ocean.
- Las Flores Creek Park Project was completed fall 2008. The Las Flores Creek discharges into the Pacific Ocean near the project site. The project incorporated park element components for public use and to improve water quality. Walk pathways were constructed of decomposed granite, a permeable surface, which would absorb stormwater into the earth. Riparian habitat was improved and naturalized to reduce erosion and flooding in Las Flores Creek.
- The Solstice Creek Bridge Replacement Project replaced the existing concrete bottom bridge with a clear span bridge, restoring critical upstream passage for the Southern Steelhead Trout from the Pacific Ocean to the Solstice Creek Watershed. The project also included the re-grading of sections of Solstice Creek surrounding the bridge to reduced erosion and sediment from discharging into the Pacific Ocean.
- The Legacy Park Project is currently in the planning stages. This project is designed to provide bacteria reduction in stormwater treatment, nutrient reduction in wastewater management, restoration and development of riparian habitats, and the creation of park for passive recreation and environmental education in the Civic Center area close to Malibu Lagoon and the Pacific Ocean.

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16. Avoidance/ Minimization Activities:

The Applicant has proposed to implement several Best Management Practices, including, but not limited to, the following:

- A specific area will be designated for staging for the duration of the Project outside of any drainage.
- An impervious ground covering will be placed under the staging and construction areas to ensure that equipment does not leak any oil or petroleum byproducts into the soil.
- Plastic lining will be placed on the ground and secured with sandbags to contain construction debris and run off.
- Exclusion fencing will be erected around the Project site.
- The portable toilet will be placed in a designated, separated and plastic bordered area to capture any potential leaks or spillage in the event that the facility falls over.
- A concrete washout pit will be created to contain all concrete construction debris, which will be disposed of at a legal point of disposal.
- The channel will be sealed off to isolate construction debris and cleaned and vacuumed before opening.
- In the event there are low flows during construction, a pump will be used to divert water from the concrete channel to ensure that the water is not contaminated with construction debris.

17. Proposed Compensatory Mitigation:

The Applicant has not proposed any compensatory mitigation due to the temporary nature of impacts associated with the Project and the location of the Project within a concrete lined channel.

18. Required Compensatory Mitigation:

The Project activities will install a water treatment system. The channel cross-section and capacity will not be modified by the Project. Since the Project impacts are temporary in nature, and the efforts are for reducing impacts to water quality, the Regional Board will not require any additional compensatory mitigation.

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See Attachment B, Conditions of Certifications, Additional Conditions for modifications and additions for the Project.

ATTACHMENT B

Conditions of Certification File No. 08-037

STANDARD CONDITIONS

Pursuant to §3860 of Title 23 of the California Code of Regulations (23 CCR), the following three standard conditions shall apply to this Project:

1. This Certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to §13330 of the California Water Code and Article 6 (commencing with 23 CCR §3867).
2. This Certification action is not intended and shall not be construed to apply to any activity involving a hydroelectric facility and requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent Certification application was filed pursuant to 23 CCR Subsection 3855(b) and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
3. Certification is conditioned upon total payment of any fee required pursuant to 23 CCR Chapter 28 and owed by the Applicant.

ADDITIONAL CONDITIONS

Pursuant to 23 CCR §3859(a), the Applicant shall comply with the following additional conditions:

1. The Applicant shall submit to this Regional Board copies of any other final permits and agreements required for this Project, including, but not limited to, the U.S. Army Corps of Engineers' (ACOE) Section 404 Permit and the California Department of Fish and Game's (CDFG) Streambed Alteration Agreement. **These documents shall be submitted prior to any discharge to waters of the State.**
2. The Applicant shall adhere to the most stringent conditions indicated with either this certification, the CDFG's Streambed Alteration Agreement, or the ACOE Section 404 Permit.
3. The Applicant shall comply with all water quality objectives, prohibitions, and policies set forth in the *Water Quality Control Plan, Los Angeles Region (1994)*.
4. The Avoidance/Minimization activities proposed by the Applicant as described in Attachment A, No. **16**, are incorporated as additional conditions herein.

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5. The Applicant and all contractors employed by the Applicant shall have copies of this Certification, the approved maintenance plan, and all other regulatory approvals for this Project on site at all times and shall be familiar with all conditions set forth.
6. Fueling, lubrication, maintenance, operation, and storage of vehicles and equipment shall not result in a discharge or a threatened discharge to waters of the State. At no time shall the Applicant use any vehicle or equipment which leaks any substance that may impact water quality. Staging and storage areas for vehicles and equipment shall be located outside of waters of the State.
7. All excavation, construction, or maintenance activities shall follow best management practices to minimize impacts to water quality and beneficial uses. Dust control activities shall be conducted in such a manner that will not produce downstream runoff.
8. No construction material, spoils, debris, or any other substances associated with this Project that may adversely impact water quality standards, shall be located in a manner which may result in a discharge or a threatened discharge to waters of the State. Designated spoil and waste areas shall be visually marked prior to any excavation and/or construction activity, and storage of the materials shall be confined to these areas.
9. All waste and/or dredged material removed shall be relocated to a legal point of disposal if applicable. A legal point of disposal is defined as one for which Waste Discharge Requirements have been established by a California Regional Water Quality Control Board, and is in full compliance therewith. Please contact Rodney Nelson, Land Disposal Unit, at (213) 620-6119 for further information.
10. The Applicant shall implement all necessary control measures to prevent the degradation of water quality from the Project in order to maintain compliance with the Basin Plan. The discharge shall meet all effluent limitations and toxic and effluent standards established to comply with the applicable water quality standards and other appropriate requirements, including the provisions of Sections 301, 302, 303, 306, and 307 of the Clean Water Act. This Certification does not authorize the discharge by the applicant for any other activity than specifically described in the 404 Permit.
11. The discharge shall not: a) degrade surface water communities and populations including vertebrate, invertebrate, and plant species; b) promote the breeding of mosquitoes, gnats, black flies, midges, or other pests; c) alter the color, create visual contrast with the natural appearance, nor cause aesthetically undesirable discoloration of the receiving waters; d) cause formation of sludge deposits; or e) adversely affect any designated beneficial uses.

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12. The Applicant shall allow the Regional Board and its authorized representative entry to the premises, including all mitigation sites, to inspect and undertake any activity to determine compliance with this Certification, or as otherwise authorized by the California Water Code.
13. The Applicant shall not conduct any construction activities within waters of the State during a rainfall event. The Applicant shall maintain a **five-day (5-day) clear weather forecast** before conducting any operations within waters of the State.
14. The Applicant shall not conduct any maintenance activities within waters of the State during a rainfall event, or at any period when site conditions would lead to excessive erosion. If any maintenance activities are to be held within five (5) days of a predicted rainfall event, the Applicant shall stage materials necessary to prevent water degradation on site, and shall ensure that all stabilization procedures are completed prior to the rainfall event.
15. If rain is predicted after operations have begun, grading activities must cease immediately and the site must be stabilized to prevent impacts to water quality, and minimize erosion and runoff from the site.
16. No activities shall involve wet excavations (i.e., no excavations shall occur below the seasonal high water table). A minimum **5-foot** buffer zone shall be maintained above the existing groundwater level. If construction or groundwater dewatering is proposed or anticipated, the Applicant shall file a **Report of Waste Discharge** to this Regional Board and obtain any necessary NPDES permits/Waste Discharge Requirements prior to discharging waste. Sufficient time should be allowed to obtain any such permits (generally 180 days). If groundwater is encountered without the benefit of appropriate permits, the Applicant shall cease all activities in the areas where groundwater is present, file a Report of Waste Discharge to this Regional Board, and obtain any necessary permits prior to discharging waste.
17. All Project construction and maintenance activities not included in this Certification, and which may require a permit, must be reported to the Regional Board for appropriate permitting. Bank stabilization and grading, as well as any other ground disturbances, are subject to restoration and revegetation requirements, and may require additional Certification action.
18. All surface waters, including ponded waters, shall be diverted away from areas undergoing grading, construction, excavation, vegetation removal, and/or any other activity which may result in a discharge to the receiving water. If surface water diversions are anticipated, the Applicant shall develop and submit a **Surface Water Diversion Plan** (plan) to this Regional Board. The plan shall include the proposed method and duration of diversion activities, structure configuration, construction materials, equipment, erosion and sediment controls,

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and a map or drawing indicating the locations of diversion and discharge points. Contingency measures shall be a part of this plan to address various flow discharge rates. The plan shall be submitted prior to any surface water diversions. If surface flows are present, then upstream and downstream monitoring for the following shall be implemented:

- pH
- temperature
- dissolved oxygen
- turbidity
- total suspended solids(TSS)
- Downstream TSS shall be maintained at ambient levels
- Where natural turbidity is between 0 and 50 Nephelometric Turbidity Units (NTU), increases shall not exceed 20%. Where natural turbidity is greater than 50 NTU, increases shall not exceed 10%.

Analyses must be performed using approved US Environmental Protection Agency methods, where applicable. These constituents shall be monitored for on a daily basis during the first week of diversion and/or dewatering activities, and then on a weekly basis, thereafter, until the in-stream work is complete.

Results of the analyses shall be submitted to this Regional Board by the 15th day of each subsequent sampling month. A map or drawing indicating the locations of sampling points shall be included with each submittal. Diversion activities shall not result in the degradation of beneficial uses or exceedance of water quality objectives of the receiving waters. Any such violations may result in corrective and/or enforcement actions, including increased monitoring and sample collection.

19. The Applicant shall restore all areas of TEMPORARY IMPACTS to waters of the United States and all other areas of temporary disturbance which could result in a discharge or a threatened discharge to waters of the State. Restoration shall include grading of disturbed areas to pre- Project contours and revegetation with native species. Restored areas shall be monitored and maintained with native species as necessary for five years. The Applicant shall implement all necessary Best Management Practices to control erosion and runoff from areas associated with this Project.
20. The Applicant shall submit to this Regional Board **Annual Monitoring Reports** (Annual Reports) by **January 1st** of each year for a minimum period of **five (5) years** following this issuance of 401 Certification or until Project completion has been achieved and documented. The Annual Reports shall describe in detail all of the Project activities performed during the previous year. The Annual Reports shall describe the status of other Project agreements or any delays in the process. At a minimum the Annual Reports shall include the following documentation and answered appropriately whether or not mitigation has been performed:

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- (a) Color photo documentation of the pre- and post- Project site conditions;
 - (b) Geographical Positioning System (GPS) coordinates in decimal-degrees format outlining the boundary of the Project areas;
 - (c) The overall status of Project including a detailed schedule of work;
 - (d) Copies of all permits revised as required in Additional Condition 1;
 - (e) Water quality monitoring results for each reach (as required) compiled in an easy to interpret format;
 - (f) A certified Statement of “no net loss” of wetlands associated with this Project;
 - (g) Discussion of any monitoring activities and exotic plant control efforts; and
 - (h) A certified Statement from the permittee or his/her representative that all conditions of this Certification have been met.
21. Prior to any subsequent maintenance activities within the subject drainages, including clearing, maintenance by-hand, or the application of pesticides, the Applicant shall submit to this Regional Board a NOTIFICATION of any such activity. Notification shall include: (a) the proposed schedule; (b) a description of the drainage’s existing condition; (c) the area of proposed temporary impact within waters of the State; (c) a description of any existing aquatic resources (e.g., wetland/riparian vegetation); and (d) any proposed compensatory mitigation. Notifications must be submitted a minimum of **three (3) weeks** prior to commencing work activities.
22. All applications, reports, or information submitted to the Regional Board shall be signed:
- (a) For corporations, by a principal executive officer at least of the level of vice president or his duly authorized representative, if such representative is responsible for the overall operation of the facility from which discharge originates.
 - (b) For a partnership, by a general partner.
 - (c) For a sole proprietorship, by the proprietor.
 - (d) For a municipal, State, or other public facility, by either a principal executive officer, ranking elected official, or other duly authorized employee.

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**Conditions of Certification
File No. 08-037**

23. Each and any report submitted in accordance with this Certification shall contain the following completed declaration:

“I declare under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who managed the system or those directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Executed on the _____ day of _____ at _____.

(Signature)
(Title)”

24. All communications regarding this Project and submitted to this Regional Board shall identify the Project File Number **08-037**. Submittals shall be sent to the attention of the 401 Certification Unit.
25. Any modifications of the Project may require submittal of a new Clean Water Act Section 401 Water Quality Certification application and appropriate filing fee.
26. The Project shall comply with the local regulations associated with the Regional Board’s **Municipal Stormwater Permit** issued to Los Angeles County and co-permittees under NPDES No. CAS004001 and Waste Discharge Requirements Order No. 01-182. This includes the Standard Urban Storm Water Mitigation Plan (SUSMP) and all related implementing local ordinances and regulations for the control of stormwater pollution from new development and redevelopment.
27. The Project shall also comply with all requirements of the National Pollutant Discharge Elimination System (NPDES) **General Permit** for Storm Water Discharges Associated with Construction Activity, Order No. 99-08-DWQ. All stormwater treatment systems shall be located outside of any water of the State and shall not be used as a wetland or riparian mitigation credit.
28. Coverage under this Certification may be transferred to the extent the underlying federal permit may legally be transferred and further provided that the Applicant notifies the Executive Officer at least 30 days before the proposed transfer date, and the notice includes a written agreement between the existing and new Applicants containing a specific date of coverage, responsibility for compliance with this Certification, and liability between them.

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29. The Applicant or their agents shall report any noncompliance. Any such information shall be provided verbally to the Executive Officer within 24 hours from the time the Applicant becomes aware of the circumstances. A written submission shall also be provided within five days of the time the Applicant becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected; the anticipated time it is expected to continue and steps taken or planned to reduce, eliminate and prevent recurrence of the noncompliance. The Executive Officer, or an authorized representative, may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.
30. *Enforcement:*
- (a) In the event of any violation or threatened violation of the conditions of this Certification, the violation or threatened violation shall be subject to any remedies, penalties, process or sanctions as provided for under State law. For purposes of section 401(d) of the Clean Water Act, the applicability of any State law authorizing remedies, penalties, process or sanctions for the violation or threatened violation constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this Certification.
 - (b) In response to a suspected violation of any condition of this Certification, the State Water Resources Control Board (SWRCB) or Regional Water Quality Control Board (RWQCB) may require the holder of any permit or license subject to this Certification to furnish, under penalty of perjury, any technical or monitoring reports the SWRCB deems appropriate, provided that the burden, including costs, of the reports shall be a reasonable relationship to the need for the reports and the benefits to be obtained from the reports.
 - (c) In response to any violation of the conditions of this Certification, the SWRCB or RWQCB may add to or modify the conditions of this Certification as appropriate to ensure compliance.
31. This Certification shall expire **five (5) years** from date of this Certification. The Applicant shall submit a complete application prior to termination of this Certification if renewal is requested.